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Attorneys for Defendant Bank One, NA

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**IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF UTAH, CENTRAL DIVISION**

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KENNETH G. HANSEN, an individual,  
DAVID RUTTER, an individual, TODD  
FISHER, an individual FIBERTEL, INC., a  
Utah corporation, and K&D  
DEVELOPMENT, LC, a Utah limited  
liability company,

Plaintiffs,

vs.

MARC S. JENSON, an individual, MSF  
PROPERTIES, LC, a Utah limited liability  
company, BANK ONE, NA, a national  
banking association, MORRIS K.  
EBELING, an individual, MARK  
ROBBINS, an individual, MADTRAX  
GROUP, LLC, a Utah limited liability  
company, RICHARD "SKIP"  
CHRISTENSEN, an individual, GEORGE  
LAWRENCE CRITCHFIELD, an  
individual, STERLING REAL ESTATE  
INVESTMENT TRUST, INC., an expired  
Delaware Corporation, SPENCER  
BRANNAN, an individual, UINTA  
RIDGE, INC., aka UINTA RIDGE

**MOTION TO DISMISS PLAINTIFFS'  
THIRD CLAIM FOR RELIEF - CIVIL  
CONSPIRACY AS TO DEFENDANT BANK  
ONE, NA**

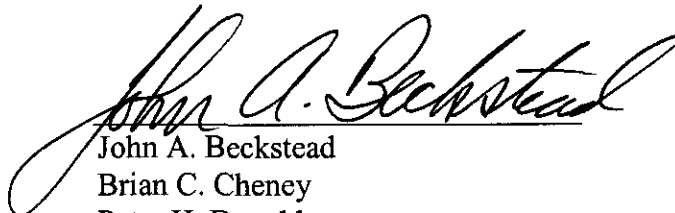
Case No. 2:04cv867 TS

Honorable Ted Stewart

DEVELOPMENT, INC., an expired Nevada corporation, FIRST WASATCH DEVELOPMENT, INC., a Nevada corporation, and DOES 1-50,  Defendants.	
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Pursuant to Rules 12(b)(6), 8(a), and 9(b) of the Federal Rules of Civil Procedure, Defendant Bank One, NA ("Bank One") hereby moves to dismiss the Third Claim for Relief - Civil Conspiracy of the First Amended Complaint dated August 27, 2004, with respect to Bank One. This claim should be dismissed as to Bank One because the object of the conspiracy was completed prior to Bank One allegedly joining the conspiracy, the law does not recognize a claim for conspiracy to conceal an already committed tort, and the conspiracy allegations have not been pled with sufficient particularity. This motion is supported by the Memorandum filed concurrently herewith.

Dated: September 29, 2004.

  
John A. Beckstead  
Brian C. Cheney  
Peter H. Donaldson  
Snell & Wilmer L.L.P.  
Attorneys for Defendant Bank One, NA

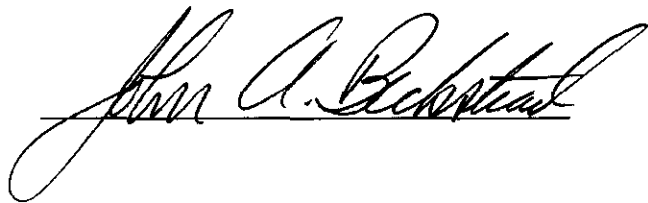
**CERTIFICATE OF SERVICE**

I hereby certify that on the 29th day of September, 2004, a true and correct copy of the foregoing **MOTION TO DISMISS PLAINTIFFS' THIRD CLAIM FOR RELIEF - CIVIL CONSPIRACY AS TO DEFENDANT BANK ONE, NA** was mailed via first class United States mail, postage pre-paid, addressed to the following:

Stephen J. Hill  
Robert B. Lochhead  
Parr Waddoups Brown Gee & Loveless  
185 South State, Suite 1300  
Salt Lake City, Utah 84111-1537

Mark F. James  
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Salt Lake City, Utah 84101

James E. Magleby  
Miller Magleby & Guymon, P.C.  
170 South Main Street, Suite 350  
Salt Lake City, Utah 84101

A handwritten signature in cursive script, reading "John A. Beckstead", is written over a horizontal line.